

Libby Community Advisory Group

Meeting Summary

September 11, 2008

Introductions

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. Gordon Sullivan joined the CAG. A list of the members in attendance is attached below as Appendix 1. The current list of CAG members with their contact information is attached as Appendix 2.

Agenda

The CAG agreed to the following agenda for this meeting:

- CAG Business
 - Meeting Process and Summaries
- Old Business
 - Letter to the EPA Administrator
 - LAMP Report
 - Health Care Issue
 - State of Montana-W.R. Grace Settlement Issue
 - Over-regulation of Construction Activities
- Agency Reports
- Public Comment
- Next Meeting Agenda

CAG Meeting Process and Summaries

Gerald Mueller stated that as the CAG facilitator, he has two responsibilities: managing the meeting to ensure that it is productive and producing a written summary of the meeting. In response to comments during and after the August 14, 2008 CAG meeting, Mr. Mueller prepared and provided the CAG email lists two memos addressing the meeting process and summaries. Copies of these memos are included in Appendix 3 and 4 below.

Meeting Process -After the August meeting, Mr. Mueller received comments that he has allowed some people to take up too much meeting time and that this is driving people away from CAG meetings. Those commenting suggested that the CAG set a time limit for individuals speaking at the meetings. Mr. Mueller asked if the CAG wished to limit when and for how long the public can speak at CAG meetings.

CAG Member Question - What is the CAG's mission statement?

Answer by Mr. Mueller - The CAG has not adopted a mission statement. At its February 24 and May 9, 2000 meetings, the CAG agreed to the following statement of its purpose:

The purpose of the CAG is to provide a conduit for formal and regular communication between the people of the Libby community and EPA (February 24, 2000) and to provide advice and/or recommendations to EPA and others such as Montana's Congressional delegation (March 9, 2000).

CAG Member Question - EPA's public involvement policy sets forth how the public has a right to participate in its decisions. Would EPA please provide us a copy of this policy?

Answer by Ted Linnert - The policy is available at the EPA Information Office. I will provide Mr. Mueller a copy of the policy that he can send out to his email lists.

CAG Member Comment - We need to establish an agenda and stick to it. All of us should keep in mind the need to get through the agenda.

CAG Member Comment - We do not need to limit the time allowed for people to talk. The CAG is a public forum. Redundant public comments should be limited.

CAG Member Comment - I don't see many members of the public here. There are about four people who dominate the meetings and are rude.

CAG Member Comment - We should specify the amount of time for each agenda item.

CAG Member Comment - Loading up the agenda stifles public comment. EPA dominates the meetings most of the time. We should ensure that one-third of the meeting is reserved for public comment.

Response by Mr. Mueller - At one time, we began meetings with EPA presentations. The CAG has requested that EPA and other agency reports be after discussions of other business. The last item on each agenda is a public comment period.

CAG Member Comment - It is not the information that EPA provides that is time consuming; it is the CAG and audience questions and EPA's responses that take the most time. I do not favor attempting to limit agenda items to specific periods. We cannot predict how much discussion any item will have. CAG members are the public. I do not see a divide between CAG members and audience members. All of us have a responsibility to compress our ideas.

Comment by Kathy Atencio - EPA is willing to sit in the audience and talk less during these meetings.

CAG Member Comment - It is inefficient for EPA to repeat the same information in five different community forums.

Response by Kathy Atencio - We do discuss topics in different detail at different meetings.

CAG Member Comment - I am alarmed that EPA would provide different information at different meetings.

Response by Ted Linnert - EPA responds to requests to speak at different meetings. If the county commissioners ask for EPA to speak at their meeting, we will do so.

Audience Member Comment - The CAG meeting is the only meeting that some of us have time to attend.

CAG Member Comment - It is hard to get to all of the meetings. The last Technical Advisory Group (TAG) meeting was a good one.

CAG Member Comment - The Operation and Maintenance Working Group has been doing significant work, particularly for homeowners, and we have not been informed adequately about it.

Audience Member Comment - The CAG did spend an hour and a half at its August meeting reviewing meeting summaries. However, during that period we discussed important issues including contamination at the schools. Meeting agenda have been expanded by presentations such as the State of Montana - W.R. Grace settlement and the ATSDR research proposal.

CAG Member Comment - We could begin each meeting with a limited period for people to suggest topics that the meeting should address. At the end of the meeting, an unlimited period could be provided for public comment.

CAG Member Comment - It would be helpful to receive written copies of briefings before the CAG meetings at which they are presented.

Audience Member Comment - The CAG used to meet twice a month, but now only meets once. To accommodate a longer agenda, I recommend that the meeting be extended by one-half hour. Perhaps the meeting could begin at 6:30 p.m.

CAG Member Comment - Maybe it is time to form a subcommittee to review the CAG mission and the mission of the other community groups and to develop recommendations about the CAG mission and meeting process.

CAG Action - Those CAG members present agreed to form a subcommittee to review the CAG mission and the mission of the other community groups and the CAG meeting process. Gordon Sullivan, Philip Erquiaga, and Mel Parker agreed to serve on the subcommittee. The subcommittee was asked to report back at the next CAG meeting.

Meeting Summaries - Mr. Mueller briefly reviewed his August 18 memo. EPA offered at the August CAG meeting to have a court reporter create a transcript as an alternative to Mr. Mueller's write a meeting summary. Mr. Mueller asked what changes, if any, the CAG wished meeting summaries.

CAG Member Comment - The meeting summary is the public record that will be used when EPA makes decisions in the future. It is important, therefore, that the summaries be accurate. For example, the summary of the August 14 meeting stated that there was a jersey barrier between the walking path and the swing set at the ASA Wood School. This is not correct. No such barrier existed.

CAG Member Comment - Another record of CAG meetings is the tape recording. I have asked EPA, and the agency has agreed to make a tape recording of all meetings in the Libby community in which it participates.

Audience Member Question - Where are copies of the CAG meeting tapes kept?

Answer by Ted Linnert - The tapes are kept at the EPA Information Center in Libby.

Audience Member Question - Is there more than one copy of each meeting tape?

Answer by Ted Linnert - Yes, there is an original and a copy. The public may check out the copy.

Audience Member Question - Could those of us who do not use email telephone comments to Mr. Mueller.

Answer by Mr. Mueller - I would prefer not to rely on telephone comments, because I may not always be available this way and because of the need to get the meeting summary sent out.

CAG Action - Those CAG members present agreed to continue to have Mr. Mueller prepare summaries of CAG meetings. However, after Mr. Mueller prepares a draft of the summary, instead of sending it only to meeting presenters for review, he is to send the review draft out to his email lists. People wishing to send him comments can do so. People without email can review the draft at the EPA Information Center. Staff at the Information Center will forward comments to Mr. Mueller. The deadline for all comments will be one week after Mr. Mueller emails the draft for review. Mr. Mueller should then use the comments to revise the draft and prepare a final version to be sent out via email and the US Mail Service. People can comment on the final version of the summary by providing written comments. Mr. Mueller should append the written comments to the subsequent meeting summary. Meeting time will not be used to review meeting summaries.

Letter to the EPA Administrator

Bill Patten presented the letter he drafted. See Appendix 5. Mr. Patten stated that he met with DC Orr and Paul Lammers and learned that while there may be some difference in approach, he and Mr. Orr share the goal of having the Libby community speak with one voice regarding a declaration of a public health emergency for Libby. Mr. Patten described his approach as more sterile and Mr. Orr's as more passionate. In an effort to accommodate both approaches, the following paragraph was added on the letter's second page:

The asbestos issue has affected our entire community including those who have not been personally exposed. Some members of our community believe that the EPA has not been entirely transparent in some of its business dealings. Many feel that the tough questions we have been asking have fallen on deaf ears and that the "official" responses we generally receive can best be described as "lip service" or "typical bureaucratic fare." Emotions run high and many harbor strong feelings of distrust for the EPA. The EPA will continue to serve our community for many years into the future. As such, we urge you to use this opportunity to help resolve these longstanding issues and put to rest these feelings of distrust and betrayal.

Mr. Patten stated that he also added a paragraph earlier on the second page addressing the recent declaration of a public health emergency in response to Hurricane Gustav:

As demonstrated by Secretary Leavitt's recent declaration of a public health emergency related to Hurricane Gustav, it certainly appears that such declarations do in fact bring federal healthcare resources to bear. Secretary Leavitt's declaration was in response to a single event that lasted only a few short days, the effects of which will be relatively short-term (measure in months or years). Our situation developed over many years, year's in which the EPA was aware of our situation, and the effects will be felt for decades. It just does not make sense to us that federal healthcare dollars can flow so quickly in one situation when we can't even get a trickle going.

Mr. Orr stated that the CAG has chased a declaration of a public health emergency almost since its beginning and gotten nowhere. He asked that a separate letter that he has written be attached to the summary of this meeting. See Appendix 6. He also requested that the CAG revisit this issue in three months and resend its letter if a declaration has not been made.

CAG Member Comment - Mr. Patten's letter should also be sent to Montana's Congressional Delegation, Montana's Governor, and the County Commission.

Audience Member Comment - There are two sections in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) addressing a public health emergency. A declaration by EPA would authorize it to clean asbestos contamination from attics. Pursuant CERCLA Section 9604(i)(1)(d), a declaration by the US Department of Health and Human Services (HHS) would require it and other federal agencies to provide health care to people exposed to asbestos.

CAG Action - After a discussion, those members of CAG present at this meeting agreed to Mr. Patten's draft of the letter. A signature page was passed around so that CAG members could sign it. The letter will also be held until Friday, September 19 at St. John's Lutheran Hospital so that CAG members not present tonight can sign it. A copy of the letter should also be sent along with a separate cover to HHS Secretary Leavitt, Montana's Congressional Delegation, Montana's Governor and the County Commission.

LAMP Report

Leroy Thom and Tanis Hernandez reported on the Libby Asbestos Medical Plan (LAMP). Mr. Thom referred to two documents "LAMP Supplemental Beneficiary" and "LAMP Screening Beneficiary". See Appendices 7 and 8.

The 2007 Legislature appropriated \$1.5 million, \$750 thousand annually, for the 2008/2009 biennium to supplement LAMP. Originally, LAMP was funded by through an EPA settlement with W.R. Grace. To distinguish between the original plan the supplemental plan funded by the legislature, the former is known as LAMP I and the latter as LAMP II. Because both funds have a finite amount of funding, both have total funding caps for in-patient hospital stays for individuals. To qualify for LAMP I, an applicant must be a participant in the W.R. Grace Medical Plan. The total inpatient hospital cap for an individual under LAMP I is \$25 thousand. To qualify for LAMP II, a person need only be diagnosed by a doctor as having asbestos-related disease. The inpatient cap for LAMP II is \$10 thousand per person.

It is important to clarify that both LAMP I and LAMP II offer annual screening benefits as a separate category of benefits under each program. Thus applying for or being accepted by the Grace plan is irrelevant for this category.

LAMP I currently has about \$800 thousand remaining. Because LAMP II funds must be expended by June 30, 2009 or returned to the state, the LAMP Board of Directors has frozen the LAMP I funds until the LAMP II funds are expended.

Obtaining the LAMP II funds has not proven to be easy. We originally asked the legislature for

\$3 million, and had to make several trips to Helena before the \$1.5 million was appropriated. It took four months before any of \$1.5 million made it to Libby.

Audience Member Question - I have refused to sign up for the W.R. Grace Medical Plan. Based on what was just said, I could still sign up for LAMP II. Could you please address why the inpatient hospitalization cap was reduced from \$15 thousand to \$10 thousand?

Answer by Tanis Hernandez - Actually, because the LAMP Board has put everyone on the LAMP II funds until they are expended, individuals have total funding caps of \$50 thousand, \$25 thousand for LAMP I and II.

CAG Member Comment- Yesterday, we had a telephone conference with Governor Schweitzer's Chief Policy Advisor Hal Harper to express our frustration with the delay in getting the legislative funds to Libby. He said that he would speak with Joan Miles, Director of the Montana Department of Public Health and Human Services (DPHHS), and Jane Smiley, Administrator of the DPHHS Public Health and Safety Division. He also indicated that we may be able to get additional state funds for the next biennium.

Health Care Issue

Mr. Mueller passed out copies of a one page summary of the asbestos-disease related health care issue that he had previously emailed to the CAG and the other email lists. See Appendix 9. He asked if the CAG wished to take additional action to develop a plan for obtaining the health care funding.

Comment by LeRoy Thom - While on a recent trip to Butte, I discussed with Commissioner John Konzen having a group meet with Governor Schweitzer to request state assistance in getting the health care funding we need. A group including Commissioners Konzen and Windom, Sandy Wagner, Tanis Hernandez, Dr. Brad Black, Bill Patten, a representative of the Libby Care Center, and me are planning to go to Helena to speak with the Governor.

Audience Member Comment - It appears we are moving in the right direction. However, the state will not have the funds that we need. The federal government is in part responsible for Libby's asbestos exposure. The federal government can provide the funding.

Response by LeRoy Thom - Even though it may not be able to provide all of the funding we need, the state may be able to help us get funding.

Audience Member Question - Why haven't our County Health Officer and our County Commission declared a public health emergency?

Answer by Commissioner Windom - We do not have the authority to do so.

CAM Member Comment - Ultimately, the state will have to pay for the asbestos-related health care through Medicaid.

State of Montana-W.R. Grace Settlement Issue

At the August CAG meeting, Clinton Maynard asked a question about what he described as a contradiction with respect to the explanation of how the mine site is addressed in the settlement. Mr. Mueller stated that because she could not be at this meeting, Catherine LeCours of the

Montana Department of Environmental Quality (DEQ) emailed the following response to Mr. Maynard's question. Mr. Mueller read the substance of her email message:

There was a question about a "contradiction" with respect to the explanation of how the mine site is addressed in the settlement. The source of the confusion here is that the mine site is treated differently than the rest of site under both the EPA and DEQ settlements. DEQ and EPA reserved their claims against W. R. Grace for OU3, consisting of the mine site and certain other areas. Claims related to the mine are handled differently in the bankruptcy because Grace or its affiliates still own the mine property. Because we have reserved our claims and Grace still owns the mine, the agencies can still require Grace to address the contamination at the mine site. Thus we do not anticipate having to use any of the settlement funds for addressing the mine site.

However, DEQ can use funds obtained through the settlement for "the State's CERCLA cost-share requirements, including operation and maintenance expenses, or other costs related to asbestos at the site." Thus, while we do not expect to have to use any of the settlement funds for costs related to the mine site, we could, if necessary, use them for that purpose. In sum, the claims released exclude OU3, but the possible use of the funds includes OU3.

Regulation of Construction Activities

Mr. Mueller stated that he put this topic on the August CAG meeting agenda at the request of Libby Mayor Berget; however, the Mayor did not attend the August meeting and he is not at this meeting.

CAG Member Comment - The activities of the Operation and Maintenance Working Group (O&M) may be related to this topic. After three years, this group is drafting a plan for implementing institutional controls at the site of the former export plant. These controls may set a precedent that will affect private property in Libby. The CAG ought to be apprised of this plan.
Response by Ted Linnert - O&M is just about to release the draft plan.

Comment by Ted Linnert - We need to hear about who appointed the members of O&M and what authority it has, in addition to reviewing the export plant plan for institutional controls.
Response by Kathy Atencio - O&M meetings are open to the public. This committee has no authority. The plan maybe included in the record of the decision for the export plant. We will provide the draft plan to the CAG when it is released.

CAG Member Comment - I have heard that the plan will contain 45 pages of regulations.

CAG Member Comment - I understand that it will address the worst case scenario.

Response by Kathryn Hernandez - No, it will not address the worst case. It will be a plan for the export plant, OU1. When it is released, ample opportunity will be provided for public comment.

CAG Member Comment - We want to avoid a situation in which we have 13 days to comment on a 45 page report.

Response by Kathryn Hernandez - Several opportunities for public comment will exist, including comments on the draft report, on the Remedial Investigation/Feasibility Study, and on the record

of decision.

CAG Member Comment - Unlike many community groups working on asbestos-related topics, O&M was not a spin-off of the CAG. EPA's Jim Christiansen created this group with the advice of the Healthy Community Initiative. TAG opposed this approach at the time.

CAG Member Comment - If the export plant record of decision comes first, it will set a precedent that may affect the entire community.

Response by Kathryn Hernandez - The export plant, OU1, is unique and will not set a precedent for the rest of Libby.

CAG Member Comment - There is a narrow line between OUI and private property. The state should also weigh in on this subject.

EPA Report

Ted Linnert, Kathy Atencio, Mike Cirian, and Kathryn Hernandez reported on behalf of EPA on the following topics.

Scientific Team Visit - Ted Linnert introduced the team of scientists from EPA, HHS, and the National Institute for Occupational Safety and Health (NIOSH), who are some of the principle investigators on the Libby epidemiology studies. See the list of visitors in Appendix 1. The scientists had put up posters around the room prior to the meeting and provided handouts that explained aspects of the epidemiology studies. They offered to answer questions after the meeting.

Libby EPA Team Leader - Kathy Atencio reported that Paul Peronard has returned full time to his previous EPA position, Emergency On-Scene Coordinator. EPA is seeking a replacement for Mr. Peronard as the Libby Team Leader and has advertised the position nationwide. The application period for this position has closed. Ms. Atencio will act as the Acting Team Leader until the position is filled in three or four months.

ASA Wood School - EPA is working with a contractor to document the actions EPA took at ASA Wood and the other Libby schools during 2000-2001 and this past summer. EPA will hold a meeting in October or November concerning the schools.

CAG Member Question - Did EPA do a visual evaluation at ASA Wood in June?

Answer - Yes.

CAG Member Question - Was vermiculite found?

Answer - Yes, some flakes of vermiculite were found.

CAG Member Question - Was the soil at ASA Wood sampled in July?

Answer - Yes. Results of the sampling will be provided at the meeting in October or November.

CAG Member Question - Is it safe for children at ASA Wood?

Answer - The situation is the same as for the entire community.

CAG Member Question - Is there a potential for exposure at ASA Wood?

Answer - There is a potential for exposure anywhere in Libby.

CAG Member Question - Will EPA conduct activity based sampling at ASA Wood?

Answer - We will address this question at the meeting in October or November.

Audience Member Comment - We place extreme emphasis on the safety of our schools.

Construction Report - Mike Cirian reported that this year 90 properties have been cleaned, and completion of another 60 in two task orders is planned. Cleanup of Flower Creek and the levee at Granite Creek is underway. The design of the removal at the golf course is finished and design of the remediation is underway. We will be including the golf course updates in our public meetings but will discuss the options for remedy at either the TAG or CAG (or both if needed) to be sure the community has a chance to provide input.

CAG Member Question - Will the golf course cleanup occur this year?

Answer - No.

Processing Areas Update (OUs 1, 5, & 6) - Kathryn Hernandez reported on OU1, 5 & 6 activities. We will hold a public meeting on September 23 at 7:00 p.m. to discuss the results of the sampling at the Stimson mill site (OU5). On September 17, BNSF will conduct opportunity sampling in OU6. The sampling plan for the railroad is out and available at the EPA Information Center.

CAG Member Question - Has the TAG reviewed the BNSF sampling plan?

Answer - No.

Mining Summit - Mike Cirian stated that the recent mining summit had the best attendance and the best questions and answers of these meetings to date.

Comment by LeRoy Thom - The summit took place in Butte this past Monday and Tuesday. A number of us attended and made presentations. I discussed the vermiculite mining in Libby. Commissioner Konzen discussed the role of the community in the Superfund designation. Mike Cirian discussed the current cleanup activities. Gayla Benefield gave a community perspective. Dr. Black talked about the health issues. We received good feedback on our presentations.

CARD Report

Mike Giesey reported on behalf of CARD. A committee, called I-CAP, has been organized to provide ATSDR/EPA community input on the ATSDR research initiative. Members of the committee include: Mike Giesey and Kimberly Rowse, CARD; Bill Patten, St. John's Lutheran Hospital; Maria Clemmons, Community Health Center; Kirby Maki, Libby schools; Jan Sanderson, Libby Clinic; and Betty Challinor, ARDNET. I-CAP's next meeting will be on September 17 at 4:00 - 5:00 p.m. at St. John's Lutheran Hospital. Please contact Mr. Giesey if you are interested in participating on the committee.

Public Comment

CAG Member Comment - Can EPA take down the signs at the creeks?

Answer by Mike Cirian - Not until the work is finished.

Audience Member Question - You mentioned that EPA has provided answers to questions from the US Senate Public Works Committee. What topics did you address?

Answer by Kathy Atencio - We addressed Mr. Peronard's change of job, the plan for expending funds resulting from the bankruptcy settlement with W.R. Grace, the ATSDR research initiative, and the cleanup triggers.

Comment by Kathryn Hernandez - TAG has received but not yet reviewed the sampling analysis plan and the quality assurance plan.

Response by Philip Erquiaga - The review has not yet been completed because we have had to change our technical advisor. Mr. Henningsen has not been able to continue in this role because of health issues.

CAG Member Comment - TAG has had problems revolving around the technical advisor position.

Response by Philip Erquiaga - We talked with a couple of candidates for this position recently in Butte.

CAG Member Question - Has TAG reviewed the creek cleanup plan?

Answer by Philip Erquiaga - No.

CAG Member Comment - TAG is supposed to be reviewing sampling and analysis and cleanup plans.

Next Meeting Agenda Topics

At its next meeting, the old CAG business will include the recommendations of the subcommittee considering its purpose and process and regulation of construction activities. New business will include agency reports.

Next Meeting

The next meeting is scheduled for 7:00 to 9:00 p.m. on October 9, 2007 in the Ponderosa Room of Libby City Hall.

Appendix 1
Libby CAG Meeting Attendance List
September 11, 2008

Members

Philip Erquiaga
DC Orr
Gordon Sullivan
Dr. Brad Black
Bill Patten
K.W. Maki
Rita Windom
Mike Giesey
LeRoy Thom
Gary Swenson
Eileen Carney

Group/Organization Represented

48 Degrees N./Eagles Voice
Libby community
Self
Lincoln County Health Officer
St. John's Lutheran Hospital
Libby Schools
Lincoln County
CARD
Former W.R. Grace employee, CARD, LAMP, TAG
Libby Volunteer Fire Department
Montana State Board of Respiratory Care Practitioners

EPA

Ted Linnert
Kathleen M. Atencio
Mike Cirian
Kathryn T. Hernandez

EPA
EPA
EPA
EPA

Visitors

Dr. Linda S. Birnbaum
Dr. Lisa Vinikoor
Dr. Thomas Bateson
Captain Danielle DeVoney

Dr. Patricia Sullivan

Senior Toxicologist, EPA
Epidemiologist, EPA
Epidemiologist, EPA
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Web Pages

<http://www.epa.gov/region8/superfund/libby/>

Appendix 3



GERALD H. MUELLER, M.S.

MEMORANDUM

Date: August 22, 2008
To: Libby Community Advisory Committee Members
From: Gerald Mueller
Re: Conduct of CAG Meetings

At least some of you are dissatisfied with the last CAG meeting and are concerned that people are being driven from participation in CAG meetings. We will, therefore, dedicate time at the beginning of the next CAG meeting to discuss how meetings are conducted in addition to how the summary of the meetings should be considered.

As I have told you before, I have sought to apply a light touch to CAG meetings, to keep them informal, and to give anyone who wants it the opportunity to participate in them. We did spend about half of the last meeting reviewing past meeting summaries, but in doing so discussed an important issue, the situation at the schools. An outcome of this discussion is a separate public meeting that EPA will hold on its work at Libby and Troy schools.

As the CAG facilitator, I am responsible for meeting productivity. I have received comments that I have allowed some people to take up too much meeting time. One of the suggestions that I have received to remedy this situation is to limit audience comment to no more than a specified amount such as two minutes. We could also limit public comment to the end of the meeting or just prior to a CAG action.

I discussed the CAG's purposes in my previous memo regarding the meeting summaries. Consistent with these purposes, I see two over-reaching topics that should be addressed in CAG meetings. One is the nature and extent of the ongoing cleanup, and the other is funding for asbestos-related health care. Prior to the last meeting, I wrote a one page summary of the health care funding issue, and I hope that the CAG would consider developing a plan to address it.

Please think about how you want CAG meetings conducted and how we might improve them. If you send me ideas prior to the next meeting, I will circulate them to my CAG lists.

Appendix 4



GERALD H. MUELLER, M.S.

MEMORANDUM

Date: August 18, 2008
To: Libby Community Advisory Group
From: Gerald Mueller
Re: Meeting Summaries

My purpose in writing meeting summaries is to help the Community Advisory Group (CAG) fulfill its purpose. The CAG has periodically discussed its purpose, but has not changed the statement adopted at its February 24 and May 9, 2000 meetings:

The purpose of the CAG is to provide a conduit for formal and regular communication between the people of the Libby community and EPA (February 24, 2000) and to provide advice and/or recommendations to EPA and others such as Montana's Congressional delegation (March 9, 2000).

Given this purpose, I write the summaries to meet three objectives:

- Provide a readable summary of the meeting presentations and discussions;
- Keep track of unanswered questions and requests for information; and
- Make a record of CAG actions.

To ensure that I accurately capture the content of the presentation at CAG meetings in the summary, I send a draft version to EPA and the other presenters for their review and comments before distributing it to my CAG lists. Occasionally, over the past eight years, corrections were made to the summary at the subsequent CAG meeting. At the May 8, 2008 meeting, a CAG member requested that each meeting begin with a review of the summary of the previous meeting.

The CAG purpose does not include creating a legal record upon which decisions are made or that can be used to hold individuals or agencies accountable. For this reason, my written record of CAG meetings is a summary and not a transcript. I write the summary based on notes that I take during the meeting. Summaries therefore reflect what I see, hear, and remember. With the exception of the presenters, I usually do not attribute specific questions or comments to specific individuals, in part because I condense and paraphrase and in part to encourage questions and discussion. Publishing written transcriptions with specific attributions may affect the willingness of individuals to participate in CAG meetings.

Appendix 5

Community Advisory Group Libby, MT

September 11, 2008

Stephen Johnson
Administrator, U.S. Environmental Protection Agency
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Honorable Administrator Johnson;

Assistant Administrator Bodine responded to the Libby Community Advisory Group (CAG) in a letter dated November 19, 2007 addressing a number of our concerns; thank you for that response.

We have attached a copy of that letter for your convenience. As you review the letter you will see that important issues are referenced and Ms. Bodine stresses the fact that you are “committed” and “deeply concerned” about the challenges that we continue to face. While such expressions are important, we were disappointed that the letter did not provide any specifics or suggestions for how we can best move forward.

We have worked through your normal chain of command and remain confident that you agree that these issues are of the utmost important. But we have not seen any tangible results and therefore request that you devote your personal attention to these matters.

The OIG investigated the process by which our community became contaminated and concluded that “Libby fell through the cracks because of fragmented authority and jurisdiction, funding constraints, and competing priorities.” As you have learned, there have been reports coming out of Libby for more than 30 years that have highlighted our health problems! And after all of that time, far too many in our community continue to ask why there is no funding mechanism in place to provide the care needed by those who continue to “slip through the cracks” of our healthcare system.

In the past the EPA was working toward a declaration of a Public Health Emergency. In December, 2001 Paul Peronard told the CAG that he was drafting an action memo that would make such a declaration. At that point in time the EPA spent a lot of time and energy telling us that this declaration was necessary in order to move forward in the cleanup of our community. As you can certainly understand, we are frustrated and confused by the EPA’s new position on this issue. As demonstrated by Secretary Leavitt’s recent declaration of a public health emergency related to Hurricane Gustav, it certainly appears that such declarations do in fact bring federal healthcare resources to bear. Secretary Leavitt’s declaration was in response to a single event that lasted only

a few short days, the effects of which will be relatively short-term (measure in months or years). Our situation developed over many years, year's in which the EPA was aware of our situation, and the effects will be felt for decades. It just does not make sense to us that federal healthcare dollars can flow so quickly in one situation when we can't even get a trickle going.

You attended a Town Hall Meeting during your visit to Libby last year. Much of the discussion during that meeting again centered on the idea of declaring a Public Health Emergency for the Libby area. As you heard from the many public comments, this issue is of paramount importance to the citizens of Libby and the surrounding communities. During that discussion you told us that a Public Health Emergency would not bring the healthcare resources our community needs. Accepting your assertion for the sake of discussion, our letter of November 19, 2007 asked for your help in identifying funding alternatives.

Following the Town Hall meeting we wrote to Senator Max Baucus and said, "... we respectfully ask, "If not a public health emergency then what?" If this is not the tool for caring for the victims of asbestos exposure in Libby, then we need your help and that of Administrator Johnson to please help us find the better alternative." We still need this advice and guidance and ask that you make it an immediate priority.

Because we have not had the funds necessary to meet all the healthcare needs of those who have been affected by asbestos exposure, the medical situation in Libby has steadily worsened since the discussion of declaring a public health emergency first began in 2001. The situation has been made worse because the incomes of many who have been exposed to asbestos, those who need expensive healthcare services the most, have steadily declined.

The asbestos issue has affected our entire community including those who have not been personally exposed. Some members of our community believe that that the EPA has not been entirely transparent in some of its business dealings. Many feel that the tough questions we have been asking have fallen on deaf ears and that the "official" responses we generally receive can best be described as "lip service" or "typical bureaucratic fare." Emotions run high and many harbor strong feelings of distrust for the EPA. The EPA will continue to serve our community for many years into the future. As such, we urge you to use this opportunity to help resolve these longstanding issues and put to rest these feelings of distrust and betrayal.

We have not been given any other information, so it still makes sense to us that the declaration of a Public Health Emergency is one of the necessary actions in order to continue to move this cleanup process forward, provide the funds necessary to fully understand the health hazards of being exposed to this asbestos fiber, and assure that anyone affected by an asbestos related disease has access to all the healthcare services they need.

We implore you; please help us find the ways to get this accomplished!

Respectfully,

Dr. Brad Black
Lincoln County Health Officer

Eileen Carney
Montana State Board of Respiratory Care

Mike Giesey
Center for Asbestos Related Disease

Kenny Hays
Libby Senior Citizens

David Latham, Editor
The Montanian

K.W. Maki
Libby Public Schools

Bill Patten
St. Johns Lutheran Hospital

DC Orr
Libby Community

Gary D. Swenson
Libby Volunteer Fire Department

Leroy Thom
Former Grace Employee

Rita Windom
Lincoln County Commissioner

Appendix 6

It is not good for this group to be sidetracked by something as superficial as semantics in this dialogue. The tone of our request shouldn't be our focus. The locus should be why the Declaration of a public health emergency is the right thing for Libby. We all seem to agree that it is, so WHY?

The reason I objected to Bills letter being voted on is that we hadn't had time to analyze the draft. I submitted a draft so that we could prepare for substantive debate on the issue. I saw trying to force a vote without debate as very contrary to the notion of public involvement. It bothers me that Mr. Mueller and Mr. Linnert allowed this to move forward in such a controversial and contentious manner when they were both aware of the action before the meeting.

I am proposing that we submit the letter that Mr. Patten drafted as he has written it so that we don't waste precious time arguing semantics. I have two stipulations that I wish the CAG to weigh. First, I ask that we agree to a lime limit for the Administrators response. If we don't have satisfactory response in three months, we submit another letter asking for a Declaration. Then we move the timetable up to every month. If the Administrator knows that this will be a topic of discussion every month, he will be obligated by public involvement requirements to respond. I don't care which language we use, I think all of us want resolution of the issue.

Second, I ask that this issue be on the agenda every month until we receive a reply. I can limit my comments every month to one facet of the issue and expect every member of the Board to be educated enough to engage in substantive debate, this is a complicated issue with legal and ethical questions besides the monetary concerns that bind up our actions.

Mr. Patten and I share a concern about the availability of health care. Our motives may be diverse, our shared concern is that some are being dropped through the cracks. This could be the first months' discussion topic. Mr. Patten has shown great wisdom in focusing on one aspect of the debate. This one facet is almost universally unifying. I would like to spend some time on EPA's culpability in this health care crisis and how that culpability affects our chances of seeing a Declaration. I realize I have the luxury of being neither a politician or a bureaucrat, I can focus on what's best for Libby.

The second month could revolve around the reasons that this is a political football and how we as a community can influence the politics that ignored this issue for thirty years. This would include discussion on the OIG report and the legal effects of avoiding a Declaration on the cleanup, a topic (hoped to broach with my letter. Without forward movement, we will be having these same discussions thirty years from now. I won't do that to another generation in Libby.

This would easily segue into a discussion on the motives of the people sitting around the table. That could be our third months' topic. Public involvement requires that we all have a voice at the table, not just the special interest groups. Last months' conflict really brought out the need for this discussion. The most valuable and cogent comments came from the audience. There is a "groupthink" dynamic at work in the CAG that is hindering open discussion. Some would even want to limit who has the ability to engage in this debate which is what I hoped to expose with my language concerning wolves in our midst. This topic may take several months.

The EPA's credibility would likely come up in this discussion, but I think it is a topic that we should address by itself. When EPA spends months convincing us that a Declaration is necessary, then turns around and spins their argument 180 degrees because of political pressure, I think credibility is a HUGE issue. We are about to finally have some science on risk assessment to sink our teeth into. The TAG has been compromised into inaction so it is up to the CAG to discern whether Of not this is the 'junk science' EPA has been known for in the past. When you have EPA officials deny that they said something after we have played the tape, it follows that truth is not high on their list of objectives, EPA has no credibility, and until we as a group spend some time analyzing why they would lie to us, we are at the mercy of the present lie.

These meetings form the legal public record for action in Libby. History will judge us for our actions in this group. Grace executives are facing that fact. I want this record to be useful in the criminal indictments that will come if we allow another generation to be exposed in Libby. When you look at how EPA has minimized the public exposures in the creeks, the schools, Riverside Park, and arising out of cleanup action, understand that they did that with the blessings of this group. I won't be a part of that. Who would?

Sincerely, DC Orr

April 15, 2008

LAMP Supplemental Beneficiary

The 2007 Montana legislature appropriated \$750,000 for each year of the 2008/2009 biennium (\$1.5 million total) to provide benefits to persons suffering from exposure to tremolite asbestos. ARDNET and the LAMP will receive a portion of the funding. ARDNET will receive \$375,000 and LAMP will receive \$1.125 million. The Department of Health and Human Services (DPHHS) for the State of Montana has transferred the funding to Lincoln County. The portion of the funding received by LAMP will be utilized, in part, to provide supplemental benefits that replicate the supplemental benefits currently provided by the Libby Asbestos Medical Plan.

To distinguish the LAMP fund of money received through the EPA in settlement of a Lawsuit from W.R. Grace & Company, the fund of money received from the DPHHS will be referred to as LAMP II.

For individuals enrolled under the Grace Libby Medical Program, LAMP II will pay some costs associated with alternative care not covered under the Grace Libby Medical Program, and some additional benefits not provided under the Grace Libby Medical Program.

There are some differences between the LAMP and the LAMP II benefits and maximum allowed amounts:

- \$10,000 maximum allowed amount for inpatient stay
- 5 hours per week of home health assistance (except in the instance of an asbestos related cancer, thoracic surgery, or a hospice determination not to exceed the stated maximum amounts of \$1,000 per month for every instance except the hospice care maximum monthly amount of \$2,000)

To be eligible for payment, claims must be incurred prior to 2/1/09 and must be received prior to 5/1/09. Filing a claim is not a guarantee that the service will be paid by LAMP II. All claims are subject to the terms and limitations of the LAMP II Program and a positive operational balance of at least \$100,000. Claims will be processed on a priority basis, determined by the date the claim is received by New West.

Any portion of the funds not utilized in the fiscal year ending on June 30, 2009 must be, in accordance with the stipulations of task order 08-07-7-41-001-0, returned to the DPHHS.

If you have any questions please contact New West toll free at 1-877-889-8405.

Appendix 8

April 15, 2008

LAMP Screening Beneficiary

The 2007 Montana legislature appropriated \$750,000 for each year of the 2008/2009 biennium to provide benefits to persons suffering from exposure to tremolite asbestos. ARDNET and the LAMP will receive a portion of the funding. ARDNET will receive \$375,000 and LAMP will receive \$1.125 million. The Department of Health and Human Services (DPHHS) for the State of Montana has transferred the funding to Lincoln County. The portion of the funding received by LAMP will be utilized, in part, to provide screening benefits that replicate the screening benefits currently provided by the Libby Asbestos Medical Plan.

To distinguish the LAMP fund of money received through the EPA in settlement of a lawsuit from W.R. Grace & Company, the fund of money received from the DPHHS will be referred to as LAMP II.

People currently enrolled and eligible for annual screening benefits through LAMP may still receive the following tests (annually) at the maximum allowed amounts differentiated by in state and out of state pricing:

99203	Office visit - New Patient
99214	Office visit - Established Patient
94060	Evaluation of Wheezing
94260	Thoracic Gas Volume
94720	Carbon Monoxide Diffusing Capacity
94010	Spirometry
71250	CT Scan - Thorax without contrast
71250-2652	Radiology read for the CT Scan
71020	Chest X-Ray, Two view, frontal and lateral
71020-26	Radiology read for chest x-ray

To be eligible for payment, claims must be incurred prior to 2/1/09 and must be received prior to 5/1/09. Filing a claim is not a guarantee that the service will be paid by LAMP. All claims are subject to the terms and limitations of the LAMP II Program and a positive operational balance of at least \$100,000. Claims will be processed on a priority basis, determined by the date the claim is received by New West.

Any portion of the funds not utilized in the fiscal year ending on June 30, 2009 must be, in accordance with the stipulations of task order 08-07-7-41-001-0, returned to the DPHHS.

If you have any questions please contact New West toll free at 1-877-889-8405.